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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	Michael Costonis et al.
Appln. No.:	09/559,725
Filed:	April 28, 2000
For:	CLAIMS DATA ANALYSIS TOOLKIT
Attorney Docket No:	10022/223

Examiner: Frenel, Vanel
Art Unit: 3626

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

☒ Response to Notification of Non-Compliant Appeal Brief.

☒ Return Receipt Postcard.

Fee calculation:

☒ No additional fee is required.

☐ Small Entity.

☐ An extension fee in an amount of $_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).

☐ A petition or processing fee in an amount of $_____ under 37 C.F.R. § 1.17(_____).

☐ An additional filing fee has been calculated as shown below:

						Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra		Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus				x $25=			x $50=	
Indep.		Minus				X100=			x $200=	
First Presentation of Multiple Dep. Claim						+$180=			+ $360=	
						Total	$		Total	$

Fee payment:

☐ A check in the amount of $_____ is enclosed.

☐ Please charge Deposit Account No. 23-1925 in the amount of $_____. A copy of this Transmittal is enclosed for this purpose.

☐ Payment by credit card in the amount of $_____ (Form PTO-2038 is attached).

☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

January 29, 2007
Date

John C. Freeman, Esq. (Reg. No. 34,483)

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Our Case No. 10022/223

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Michael Costonis et al.	Examiner: Frenel, Vanel
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Filing Date: April 28, 2000	
For CLAIMS DATA ANALYSIS TOOLKIT	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On December 29, 2006 a Notification of Non-Compliant Appeal Brief ("the Notification") was mailed in which it was asserted that Appellants' Appeal Brief filed on October 2, 2006 did not contain a concise explanation of the subject matter defined in each of the independent claims. The Notification stated that "[t]he Summary of Claimed Subject Matter does not contain a concise explanation for each of the independent claim in the appeal, referring to the specification by page and line number and to the drawings if any, by reference characters. On page 9 Applicant addressed claim 65 only which is a dependent claim. Appropriate correction is needed."

Appellants traverse the Notification in that the explanation of the independent claims 1, 28, 55 and 82 in Appellants' Appeal Brief is concise. This is evidenced by the above statement in the Notification which does not provide any specifics as to how the explanation regarding claims 1, 28 and 82 is not concise and how to correct the explanation. Regarding claim 55, the undersigned reviewed page 9 of Appellants' Appeal Brief and it is readily apparent that the reference to claim 65 was a typographical error in that claim 55 was meant instead. The undersigned contacted Examiner Frenel on the week of January 22, 2007 and identified the typographical error and asked that the Notification of Non-Compliant Appeal Brief be withdrawn in view of MPEP § 1205.03 which states that "[t]he examiner should not require a corrected brief for minor non-compliance in an appeal brief." Examiner Frenel indicated that he would need to contact his supervisor regarding Appellants' request. The undersigned contacted Examiner Frenel on January 29, 2007 requesting a decision from Examiner Frenel based on his discussion with his supervisor. Examiner Frenel indicated that he had not been able to discuss the situation with his supervisor and would not be able to do so until later in the week.

In view of the impending deadline for filing a response to the Notification and despite the improperness of the objections, a replacement Summary of Claimed Subject Matter section is being attached hereto. Accordingly, please replace the Summary of Claimed Subject Matter section of Appellants' Appeal Brief with the following Summary of Claimed Subject Matter wherein the above mentioned typographical error has been corrected.

V. SUMMARY OF CLAIMED SUBJECT MATTER

An understanding of the invention of independent claims 1, 28, 55 and 82 can be made upon a review of the embodiments of the invention shown in Figs. 1, 3, 4, 7 and 8 of the specification. Note that in the description to follow, like elements will employ identical identification numerals.

Fig. 1 shows an embodiment of a system that includes an input device 2, display 4 and a computer 6 which includes a memory S and a central processing unit 10 (P. 4, ll. 19-20). The system may be implemented in a distributed system containing a server computer and client computers (P. 4, l. 20 – P. 5, l. 2). As shown in Fig. 3, the CDA toolkit 300 includes five segments: setup 310, file entry 320, review 330, analysis 340 and information 350 (P. 5, ll. 6-7). These segments can be visually represented in the form of menus wherein a user can select different options from different menus (P. 5, ll. 7-9). For example, from a menu in the CDA toolkit, the user can select the setup 310 menu, file entry 320 menu, review 330 menu, analysis 340 menu or information 350 menu (P. 5, ll. 9-10). Any reference to segment herein can be represented on a display as any type of menu (P. 5, l. 11). The first segment, set up 310, provides for initial data entry and allows a reviewer or a user or administrator of the system to initialize the database in order to prepare for claim reviews (P. 5, ll. 11-13). The second segment, file entry 320, allows a reviewer or administrator to capture and view the relevant information connected with requested and received claim files (P. 5, ll. 14-15). The third segment, review 330, allows a reviewer or administrator to access and input information regarding ongoing claim file reviews (P. 5, ll. 15-17).

As shown in Fig. 4, setup 310 is broken down into five segments: Setup 310 allows a reviewer or administrator to initialize the database in order to prepare for completing

claimfile reviews (P. 6, ll. 4-6). Best practice information 430 allows a reviewer or administrator to enter best practices (BP) identification information which is to be used in the claims data analysis to capture the loss economic opportunity (P. 7, ll. 3-5). It can be appreciated by one of ordinary skill in the art that the reviewer can select from a standard set of best practices provided for the automobile, liability, property and accident lines of business, or the reviewer can create his own best practices (P. 7, ll. 5-8). Examples of best practices that can be selected and their characteristics are shown in Table 1 (P. 7, l. 8 – P. 18, l. 4).

As shown in Fig. 7, mentioned best practice 708 is a report that shows the number of times each best practice is mentioned (both for a positive loss economic opportunity and customer service) and the average loss economic opportunity percentage (P. 23, ll. 11-13). The score (count multiplied by average loss economic opportunity) should be used to identify a best practice with significant impact (P. 23, ll. 14-15). The average loss economic opportunity is calculated as the average of all already reviewed files with the specific best practice mentioned (P. 23, ll. 15-17).

Best practices with loss economic opportunity 710 is a report that shows for each best practice the number of times the best practice was mentioned where the best practice was related to a positive loss economic opportunity and the average loss economic opportunity percentage for each best practice, differentiating between indemnity and the allocated loss adjustment expense (ALAE) (P. 23, ll. 18-21). The score (count multiplied by average loss economic opportunity) is used to identify the best practice with significant impact (P. 23, l. 21 – P. 24, l. 1).

Opportunity projection per best practice 716 is a report which shows a production of the opportunities for each best practice, sorted by the phases of claim handling process (P.

24, ll. 17-19). The opportunity is calculated by multiplying the total claim volume with the frequency of loss economic opportunity and the average loss economic opportunity (one loss economic opportunity occurs) for each best practice (P. 25, ll. 9-12). This report also provides information regarding the count of mentioning where the best practice was related to a positive loss economic opportunity (P. 25, ll. 12-13). This report helps to identify and quantify these best practices with high opportunities (P. 25, ll. 13-14).

Fig. 8 depicts a flowchart representing a method of calculating the best practice and the loss economic opportunity (P. 29, ll. 5-6). Once the system is calibrated, the user reviews the claims (step 820), and provides responses to the questionnaires based on his review of the claims (step 830) (P. 29, ll. 10-12). The reviewer then links his or her responses to the questionnaires to specific best practices that were invoked during the claims process and can further be linked to the particular phase the best practice was used (step 840) (P. 29, ll. 12-14). For example, a reviewer can enter information indicating the net loss economic opportunity (LEO) identified in the particular claim file review, a value representing customer service identified in the particular claim file review, a first, second and/or third best practice identified in the particular claim file review, and a best practice weight (0% up to 100%) for which to attribute the customer service and best practices entered to the net LEO (P. 29, ll. 14-19). The system then calculates a loss economic opportunity based on the reviewer's responses to the questionnaires (step 850) (P. 29, ll. 19-20).

After the loss economic opportunity is calculated, the reviewer has an opportunity to generate reports which include statistics on all aspects of claims processing (P. 29, ll. 21-22). These reports include loss economic opportunity and the frequencies of loss economic opportunity for each line of business, frequency of best practices used, account

for each best practice representing where the best practice was related to a positive loss economic opportunity and the average loss economic opportunity percentage for each best practice, which best practices are related to customer service, and a projection of the total loss economic opportunity based on the underlying segmentation of the claim files and the claim volume of that segment (P. 29, l. 22 – P. 30, l. 6). After the reporting step (step 860), best practices and loss for not utilizing best practices are determined (step 870) (P. 30, ll. 6-8). For example, a reviewer, in providing responses to a questionnaire may enter data reflecting a net LEO: $150, customer service value: 1, best practice 1: 17, and %: 100 (P. 30, ll. 9-10). Since a net LEO was indicated and best practice 1 was indicated and weighted 100%, this means that for that particular claim, the failure to use best practice 17 cost the insurance company $150 with a need for customer service (P. 30, ll. 10-13).

With the above summary in mind, claim 1 claims the invention as a method for claims data analysis that includes receiving information associated with a plurality of processed claims and providing responses into an electronic data processing system in response to a set of queries associated with the information. An example of such receiving and providing is the computer 6 of Fig. 1 that receives claim information from a reviewer or administrator (P. 5, ll. 15-17). Such claim information is used by a user to provide responses to questionnaires per step 830 of Fig. 8 (P. 29, ll. 10-12). The claimed method further entails selecting a subset of best practices from a predetermined set of best practices associated with a claims handling process and associating the subset of best practices with the responses. An example of such selecting and associating is performed per step 840 of Fig. 8 (P. 29, ll. 12-14). The claimed invention also involves determining with the electronic data processing system a loss economic opportunity associated with processing the plurality of claims, where the loss economic opportunity

includes a cost associated with processing the plurality of claims and is determined based on the responses and identifying from the subset of best practices a best practice associated with processing the plurality of claims based on the loss economic opportunity. An example of such determining and identifying are disclosed at steps 850 and 870 of Fig. 8 (P. 29, ll. 19-20 and P. 30, ll. 6-8 and 10-13).

Claim 28 claims the invention as an apparatus for claims data analysis that includes a receiving module for receiving information associated with a plurality of processed claims and a providing module for providing responses into a data processing system in response to a set of queries associated with the information. An example of such receiving and providing modules is the computer 6 of Fig. 1 that receives claim information from a reviewer or administrator (P. 5, ll. 15-17). Such claim information is used by the computer to provide responses to questionnaires per step 830 of Fig. 8 (P. 29, ll. 10-12). The claimed apparatus further entails a selecting module for selecting a subset of best practices from a predetermined set of best practices associated with a claims handling process and an associating module for associating the subset of best practices with the responses. An example of such selecting and associating modules is within the computer 6 that perform step 840 of Fig. 8 (P. 29, ll. 12-14). The claimed invention also involves a determining module for determining a loss economic opportunity associated with processing the plurality of claims, where the loss economic opportunity includes a cost associated with processing the plurality of claims and is determined based on the responses and an identifying module for identifying from the subset of best practices a best practice associated with processing the plurality of claims based on the loss economic opportunity. An example of such determining and identifying modules are within the

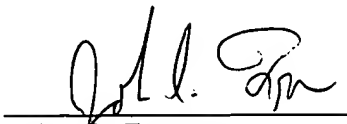
computer that performs the steps 850 and 870 of Fig. 8 (P. 29, ll. 19-20 and P. 30, ll. 6-8 and 10-13).

Claim 55 claims the invention as a computer-readable medium containing executable instructions for claims data analysis that includes executable instructions stored on a computer-readable medium for receiving information associated with a plurality of processed claims and for providing responses into a an electronic data processing system in response to a set of queries associated with the information. An example of such a computer-readable medium is within the computer 6 of Fig. 1 that receives claim information from a reviewer or administrator (P. 5, ll. 15-17). Such claim information is used by a user to provide responses to questionnaires per step 830 of Fig. 8 (P. 29, ll. 10-12). The claimed computer-readable medium further entails including instructions for selecting a subset of best practices from a predetermined set of best practices associated with a claims handling process and for associating the subset of best practices with the responses. An example of such instructions for selecting and associating are represented by step 840 of Fig. 8 (P. 29, ll. 12-14). The claimed invention also involves a computer-readable medium with instructions for determining a loss economic opportunity associated with processing the plurality of claims, where the loss economic opportunity includes a cost associated with processing the plurality of claims and is determined based on the responses and for identifying from the subset of best practices a best practice associated with processing the plurality of claims based on the loss economic opportunity. An example of such a computer readable medium with instructions for determining and identifying is within the computer 6 with instructions represented by steps 850 and 870 of Fig. 8 (P. 29, ll. 19-20 and P. 30, ll. 6-8 and 10-13).

Claim 82 claims the invention as an electronic data processing system for claims data analysis that includes a means for receiving information associated with a plurality of processed claims and a means for providing responses into the electronic data processing system in response to a set of queries associated with the information. An example of such means is the system that includes computer 6 of Fig. 1 that receives claim information from a reviewer or administrator (P. 5, ll. 15-17). Such claim information is used by the system to provide responses to questionnaires per step 830 of Fig. 8 (P. 29, ll. 10-12). The claimed apparatus further entails a means for selecting at least one subset of best practices from a predetermined set of best practices associated with a claims handling process and a means for associating the subset of best practices with the responses. An example of such means is the system that includes computer 6 of Fig. 1 that perform step 840 of Fig. 8 (P. 29, ll. 12-14). The claimed invention also involves a means for determining with the electronic data processing system a loss economic opportunity associated with processing the plurality of claims, where the loss economic opportunity includes a cost associated with processing the plurality of claims and is determined based on the responses and a means for identifying from the subset of best practices a best practice associated with processing the plurality of claims based on the loss economic opportunity. An example of such means is within the computer that performs the steps 850 and 870 of Fig. 8 (P. 29, ll. 19-20 and P. 30, ll. 6-8 and 10-13).

There are means-plus-function terms or step-plus-function terms in independent claim 82 and dependent claims 83-104 which are argued separately below in Section VII.

Respectfully submitted,



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Dated: January 29, 2007